



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/822,272

04/08/2004

Daniel F. D'Elena

END920040009US1

2174

87176 7590 10/05/2009

IBM Corporation -Endicott (JVL)

c/o Van Leeuwen & Leeuwen

P.O. Box 90609

Auston, TX 78709-0609

EXAMINER

FLEISCHER, MARK A

ART UNIT

PAPER NUMBER

3624

MAIL DATE

DELIVERY MODE

10/05/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/822,272	<b>Applicant(s)</b> D'ELENA ET AL.	
	<b>Examiner</b> MARK A. FLEISCHER	<b>Art Unit</b> 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,6,8,13,14 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6,8,13,14 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Status of Claims**

1. This final rejection is in reply to the amendments filed on 21 May 2009.
2. Claims 1, 6, 8, 13, 14 and 19 have been amended.
3. Claims 2 – 5, 7, 9 – 12, 15 – 18 and 20 have been canceled.
4. Claims 1, 6, 8, 13, 14 and 19 are currently pending and have been examined.

### ***Response to Amendment***

5. The prior rejection of claims 1, 8 and 14 under 35 U.S.C. §112, 2<sup>nd</sup> paragraph are withdrawn in light of Applicant's amendments to these claims.

### ***Response to Arguments***

6. Applicant's arguments filed 21 May 2009 have been considered but they are not persuasive. Examiner appreciates the attempts of the Applicant to demonstrate the novel features of the claimed invention insofar as the bifurcation of classes of skills. Applicants now do this by arguing that the application teaches a 'modularity' of frameworks and that the modules therein affects how skill classes are applied and used in the calculation of competency levels. Applicants state "that none of the cited sections of Mui, Miller, and/or Magrino teach or suggest this type of modularity in a profession-specific framework module. In particular, none of the cited references teach or suggest 'creating a second profession-specific framework module, wherein the creating comprises replacing the first subset of dimension skills in the first profession-specific framework module with the second subset of dimension skills,' as taught and claimed by Applicants." (Remarks, p.14). Unfortunately, Applicant's original claim set and specification do not teach this either as described in the 35 U.S.C. §112, 1<sup>st</sup> paragraph rejections below. The crux of this new perspective is evident in the new claim language: *creating a second profession-specific framework module, wherein the creating comprises replacing the first subset of dimension skills in*

*the first profession specific framework module with the second subset of dimension skills*". This language purports to get around the prior art by establishing what amounts to a different sequence of computational steps that modify data structures associated with a first set of dimension skills and then using that framework to then calculate and evaluate skill levels and then replacing the set of skills and doing a new calculation based on them. Although this new claim language provides a new spin on the invention insofar as the sequencing of calculations, it fails to overcome the prior art for several reasons.

7. As stated earlier, Applicant's essentially seek to patent an invention wherein the skills and competencies used to evaluate an employee, while fully encompassed by the prior art, are grouped (labeled) into two main groupings before they are weighted as opposed to weighting them without such grouping. The earlier Office actions addressed this by responding to Applicant's arguments that the prior art "does not teach or suggest differentiating between "core skills" and "dimension skills" and further does not teach or suggest evaluating a user (e.g., employee) by calculating a rank for both types of skills and then combining the rankings into an overall ranking." (page 3, Office Action of 25 Feb. 2009). The emphasis then was on the differentiation between core skills and dimension skills. Applicants argued then that "One of the shortcomings of the prior art is that the prior art does not teach or suggest differentiating between "core skills" and "dimension skills" and further does not teach or suggest evaluating a user (e.g., employee) by calculating a rank for both types of skills and then combining the rankings into an overall ranking." (page 3, Office Action of 25 Feb. 2009). The prior art however teaches these as stated in earlier Office Actions:

"Even assuming that these terms are to be given patentable weight, the prior art accounts for these classifications of skills and even provides the same dichotomy: "skills and competencies" (Mui [0972]) and "User profiles may include skill competencies and gaps, roles and responsibilities, interests and career goals..." See (Mui [0963]) where 'roles and responsibilities' encompass the 'core competencies' referred to by the Applicant while the 'skills competencies' encompass professional skills."

Art Unit: 3624

(see the Final Rejection of 2 September 2008, p.5). This 'differentiation' is now effected through the mechanism of the aforementioned limitation regarding computation, replacement of a first subset of dimension skill data in a module so that a computation occurs based on a second subset of dimension skills. This is nothing more than repeating the original computation with new input data. Thus, the order of the computation is now emphasized for two distinct subsets whereas before the delineation of core skills and dimension skills held sway. In the current perspective, two steps describing computation on two subsets are described instead of describing computation on two subsets. Examiner is of the belief that such grammatical augmentation of the claims should not be given patentable weight. See MPEP §2111.01 and *Altiris Inc. v. Symantec Corp.*, 318 F.3d 1363, 1371, 65 USPQ2d 1865, 1869-70 (Fed. Cir. 2003) (Although the specification discussed only a single embodiment, the court held that it was improper to read a specific order of steps into method claims where, as a matter of logic or grammar, the language of the method claims did not impose a specific order on the performance of the method steps, and the specification did not directly or implicitly require a particular order).

Repeating Examiner's statement from the Final rejection of 2 September 2008:

"[ ] Applicant argues that the prior art "does not teach or suggest differentiating between "core skills" and "dimension skills" and further does not teach or suggest evaluating a user (e.g., employee) by calculating a rank for both types of skills and then combining the rankings into an overall ranking." But the specific delineation of classes of skills or the lack thereof leads to the same results—an assessment of a user based on a variety of skills and progression. Indeed, much of the prior art concerns rating individuals in a wide variety of categories. Depending on the associated weights assigned, some categories will not affect an overall rating while other categories will. Afterall, virtually all employees have *some* skill levels in a wide variety of categories even if the particular domain is outside their area of expertise. For example, most managers have some typing skills, janitors similarly have decision making skills, etc. Thus, the entire spectrum of skills and competencies can be applied, scored, weighted and assessed among all individuals in an enterprise. In other words, the claimed utility of Applicant's invention is to highlight those skill areas where a company can obtain the greatest return on investment in developing reasonable progression requirements for a given individual and "dynamically measure a workforce's capabilities and develop the skills of the workforce to respond to changing market needs." (Specification page 2, line 28).

As shown below in the admitted prior art, the delineation of competencies and so forth into two broad categories are old and well known as shown in Travis [Figure 11] wherein "shared

Art Unit: 3624

competencies” and “job specific skills” are clearly delineated in their performance management schema. See also Mills [p.13] wherein “core competence” is consonant with the definition in the instant application along with “supportive competences” that correspond to dimension skills. Other examples therein abound and, at a minimum, such categorizations as described in the application would have been an obvious variation to one of ordinary skill in the art of what is already taught as these examples demonstrate.

8. As noted in the previous Office Action regarding claims 1, 8 and 14, Applicant has failed to rebut Examiner’s **Official Notice** that

- it was old and well-known as well as common place business management arts to determine competency levels in groups, categories and classes of skills and competencies, and
- it was old and well-known as well as common place business management arts that all classes of skill or competence are amenable to improvement.

Examiner notes the following discussion of Official Notice taken from the MPEP:

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner’s action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b). See also *Chevenard*, 139 F.2d at 713, 60 USPQ at 241 (“[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention.”). A general allegation that the claims define a patentable invention without any reference to the examiner’s assertion of official notice would be inadequate. If applicant adequately traverses the examiner’s assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697 (“[T]he Board [or examiner] must point to some concrete evidence in the record in support of these findings” to satisfy the substantial evidence test). If the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2). If applicant does not traverse the examiner’s assertion of official notice or applicant’s traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner’s assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate. (MPEP § 2144.03(C))

Art Unit: 3624

Applicant has not “specifically point[ed] out the supposed errors in the examiner’s action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art.” For these reasons, the statements that

- it was old and well-known as well as common place business management arts to determine competency levels in groups, categories and classes of skills and competencies, and
- it was old and well-known as well as common place business management arts that all classes of skill or competence are amenable to improvement.

are taken to be **admitted prior art**.

### ***Claim Rejections - 35 USC § 112***

#### ***1<sup>st</sup> Paragraph***

9. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

10. Claims 1, 8 and 14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation

- *creating a second profession-specific framework module, wherein the creating comprises replacing the first subset of dimension skills in the first profession specific framework module with the second subset of dimension skills*

does not have support in the specification.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1, 6, 8, 13, 14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mui (US PGPub 20030229529 A1) in view of Miller (US PGPub 20030110067 A1) and further in view of Magrino (US PGPub US 20020198765 A1).

**Claims 1, 8 and 14:**

Although claims 1, 8 and 14 are worded and/or structured slightly differently, they have the same scope and so are addressed together. Mui, as shown, describes and/or discloses the following limitations.

- *retrieving one or more core skills from a data store, wherein each user of a plurality of users is associated with one or more of the core skills* (Mui, in at least [0972] states: “Information Distributor [ ] can locate and deliver a wide variety of resources [and] supports a wide variety of descriptive information required by business applications, from standard web metadata to catalog information to skills and competencies.” (emphasis added) where ‘information’ that is ‘deliver[ed]’ must, *ipso facto* be *retriev[ed]* and where ‘catalog...’ corresponds to *core skills*. Note that this also that this pertains to records of *each of a* as described in the abstract: “The method comprises establishing competency records, person records, and building desired goal profile records. Competencies identified in person records are compared to required competencies identified in goal profile records to identify best fit persons to utilize in achieving a goal.”), *and wherein each of the core skills is a generalized skill*

*useful in supporting an organization's business objectives* (Mui in at least [1245] states: "The person data record may contain the person's name, job title, competencies and associated competency levels held, identified or assigned goals, and other general human resources related information." (emphasis added) and in [1247] describes and/or discloses the meaning of 'competency' to wit: "A Competency is the skill, knowledge, or behavior being measured, calculated, acquired, specified, or tested. [...] Example Competencies include: Java Programming, Written Communications, Product Knowledge, Quality Attitude, and People Skills. Users of the Performance Application can create a plurality of Competency data records representing Competencies which may be stored in a Competency database. The Competency data record may comprise the name of the Competency, a description of the Competency, and the requirements for holding different levels of the Competency. The Performance Application utilizes created Competency records in establishing Competencies held by individuals and Competencies required to achieve goals." (emphasis added) where the emphasized text includes examples of *a generalized skill...* that are 'required to achieve goals' which corresponds to *an organization's business objectives*);

- *identifying a progression requirement stored in a memory for each of the core skills and for the first subset of dimension skills; creating a first profession-specific framework module, wherein the creating comprises including the retrieved core skills, the first subset of dimension skills, and the identified progression requirements in the first profession-specific framework module* (Mui, in at least [1285] states: "The Performance Application may utilize goal records to monitor progress on the goal, assign goals to person, and identify Competencies associated with the goal. Each goal record may be associated with a subgoal profile record or parent goal record, and each subgoal or parent record may have additional levels of subgoals or parents, with each subgoal record or parent goal record identifying competencies and

associated competency levels helpful in achieving the desired subgoal or parent goal.” (emphasis added). See Mui [0173]-[0201] for ‘profession-specific’ modules that teach progression achievements. See also Mui [0209] wherein team managers work with “Profile Metadata” to “track progress towards goals” wherein the metadata and/or profile record corresponds to a module. Examiner takes **as admitted prior art** that it is old and well-known as well as common place in the human capital management arts to establish progression requirements with respect to a plurality of skills and competencies as shown in Travis in at least [0009] and [0102].)

- *storing the first profession-specific framework module* (Mui in at least [0044] uses the term ‘framework’ to describe the entire system; see also Mui’s use of the term ‘platform’ at [0003].) *in one of the nonvolatile storage devices* (Mui in at least [0281] for ‘storage’) *at a location accessible by an evaluation software routine included in the workforce evaluation tool* (Mui in at least 1258] refers to ‘the Competency Proficiency algorithm’ that performs “evaluations” and wherein the algorithm is stored along with other data structures and programs as in, e.g., [0077] and [0257] and many other references.);
- *evaluating a first user, wherein the first user is selected from the first subset of the plurality of users, and wherein the evaluating is performed using the first profession-specific framework module and the evaluation software routine*, (Mui, in at least claim 11 states: “[...] held competency level by a person is determined from evaluations such as personal assessments, test, and courses.” (emphasis added) where the emphasized text collectively constitutes a framework or structure for assessing a user.)
- *identifying a progression requirement stored in the memory for the second subset of dimension skills; creating a second profession-specific framework module, wherein the creating comprises replacing the first subset of dimension skills in the first profession-specific framework module with the second subset of dimension skills*

(Mui, in at least [1285] states: “The Performance Application may utilize goal records to monitor progress on the goal, assign goals to person, and identify Competencies associated with the goal. Each goal record may be associated with a subgoal profile record or parent goal record, and each subgoal or parent record may have additional levels of subgoals or parents, with each subgoal record or parent goal record identifying competencies and associated competency levels helpful in achieving the desired subgoal or parent goal.” (emphasis added). See Mui [0173]-[0201] for ‘profession-specific’ modules that teach progression achievements. See also Mui [0209] wherein team managers work with “Profile Metadata” to “track progress towards goals” wherein the metadata and/or profile record corresponds to a module. Examiner takes **as admitted prior art** that it is old and well-known as well as common place in the human capital management arts to establish progression requirements with respect to a plurality of skills and competencies as shown in Travis in at least [0009] and [0102].);

- *storing the second profession-specific framework module in the data store accessible by the evaluation software routine* (Mui in at least [0044] uses the term ‘framework’ to describe the entire system; see also Mui’s use of the term ‘platform’ at [0003].); *and*
- *evaluating a second user, wherein the second user is selected from the second subset of the plurality of users, and wherein the evaluating is performed using the second profession-specific framework module and the evaluation software routine* (Mui, in at least claim 11 states: “[...] held competency level by a person is determined from evaluations such as personal assessments, test, and courses.” (emphasis added) where the emphasized text collectively constitutes a framework or structure for assessing a user.)

Mui does not specifically refer to a *progression requirement* regarding a second subset *per se* (but see the text above), nor teaches that it is specifically associated with a particular profession nor specifically teaches *creating a first profession-specific framework module, wherein the*

*creating comprises including the retrieved core skills, the first subset of dimension skills, and the identified progression requirements in the first profession-specific framework module, (but see Mui [0173]-[0201], iter alia teach various 'manager' (modules) to evaluate various competencies that pertain to specific types of tasks or professional profiles such as sales and marketing, accounting and the like. Mui [0213] teaches "competency gap analysis" and in [0212] reveals "multiple, complementary mechanisms for identifying interventions.", where in [0214] the analysis entertains "certification requirements associated to the actual learning profile of the individual in the role" where the 'actual...' corresponds to the profession-specific framework module) but Miller, in an analogous art, does. Miller [0250] states "to create the code of each of the modules...". Note that this creation involves including retrieved core skills, dimension skills and a progression requirement... as claimed. Miller, in at least [0001] wherein he states: "...a method for assisting and expediting an organization's progression through the levels of the Capability Maturity Model (CMM)." (emphasis added) where 'progression' and 'levels' corresponds to a subset of dimension skills... Also, in at least [0096] Miller states: "(3) designing career progression...to reward individuals for desired contributions." (emphasis added) where 'contributions' corresponds to those associated with a subset of dimension skills to which their competencies make 'contributions'. While Mui describes, as shown above, performance measures and performance profiles (see Mui [abstract] "goal profile records", and "User profiles may include skill competencies and gaps, roles and responsibilities, interests and career goals."), Mui does not specifically calculate rankings based on the two groupings, i.e., core skills and dimension skill, but Examiner takes **as admitted prior art** that it is old and well-known as well as common place business management arts to determine competency levels in groups, categories and classes of skills and competencies. See for example Travis [Figure 11] wherein two categories: "shared competencies" and "job specific skills" are described. This delineation is further evidenced by the very notion of "competency profiles" as in Mui [1246], in Miller [0097] "[t]he organization may determine profiles for the ideal candidates..." (emphasis added), in Magrino [0009] "[...] the intrinsic and progressive variability of workforce skills will inevitably lead*

the ability to update the categorization capabilities of conventional HCM systems.”, and in D'Elena [0034]: “Skills [ ] includes skills which may be segmented into two categories, core skills and functional skills. Core skills are profession specific skills and functional skills define a job role in more detail.” (emphasis added). Mui also does not specifically describe and/or disclose the following limitations, but Miller does as shown.

- *retrieving, from a data store, a first subset of dimension skills, the first subset of dimension skills selected from a plurality of dimension skills, wherein the first subset of dimension skills correspond to a first subset of the plurality of users* (Miller [0094] states “The roles, jobs, teams and organizational structures will document the responsibilities associated with: the individual (roles), groups of related roles (jobs), groups of jobs (teams) and the span of control, reporting relationships and functional relationships of all of these components.” and in [0120] which states “...monitoring and developing the skills and performance of program management team members.” Where the association between specific skills and a specific group, *i.e.*, team, is evident. Miller, in at least [0073] states: “Returning to FIG. 2G, the next task in the mini-assessment and appraisal is to assess the development of an onsite schedule, step 262. The core of the assessment during step 260 is made up of the onsite period, which usually lasts from five to ten days. The onsite period consists of three basic activities: (1) gathering information through interview sessions with project leaders, team leaders, and functional area representatives; (2) mapping information to processes areas within the scope of the assessment through consolidation sessions [...]” and in [0094] states: “The competency model definition will document the knowledge, skills and other attributes/abilities associated with high performance on a job. The roles, jobs, teams and organizational structures will document the responsibilities associated with: the individual (roles), groups of related roles (jobs), groups of jobs (teams) and the span of control, reporting relationships and functional relationships [...] In designing a competency model [...], the organization should

group together related competencies to form a competency model. A competency is skills, and other attributes/abilities associated with high performance on a job; and a competency model is a group of related competencies required to perform a career field such as team leader or technical coach. Similarly, [...], the organization defines the roles played by individuals, the jobs they hold, the teams in which they work, and the relationship between teams. The organization should logically define roles for individuals on the basis of their competencies, [...]" (emphasis added) where 'group together...' and 'competency model is ...' corresponds to *a subset of dimension skills...*. Note that 'gathering information...' and 'mapping information' as disclosed corresponds to *retrieving a subset...*) and wherein each of the dimension skills included in the first subset of dimension skills is a profession-related skill corresponding to a first profession found in the organization (Miller, in at least [0094] states: "...a competency model is a group of related competencies required to perform a career field such as team leader or technical coach." (emphasis added) where the emphasized text corresponds to examples of *skill corresponding to a particular profession found in the organization*);

Both Mui and Miller provide related systems and methods for establishing a framework and methodology for increasing and improving the effectiveness of a workforce by accurate assessments of a spectrum of skills and competencies. Both provide means to segregate differing areas of competence, creation of competency models and evaluating them in the context of an enterprise's mission so as to "implement systemic changes to achieve higher levels of [ ] maturity." (Miller [0013]) and thus "defines a means for assessing, rewarding, and developing the individuals [sic] in an organization." (emphasis added) (Miller [0096]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Mui and Miller and the technical ability existed to improve the system and methods in the same and/or obvious ways and the result of the improvement was predictable.

Neither Mui nor Miller specifically describe and/or disclose that the aforementioned progression requirements are identified in a *profession-specific* framework nor teaches the following limitations, but Magrino, in an analogous art, does as shown. Magrino, in at least [0058] states: “Professional Skills: category fields are provided to permit entry of specific work experience, knowledge and training, certifications, and degrees and other professional qualifications received. Categorized fields can be provided to permit entry of specific professional qualifications, which are prerequisites for specific, typically professional positions, or required for maintenance of a typically professional position, such as mandatory continuing education credits.” (emphasis added). Miller describes and/or discloses the following elements of the aforementioned limitations. Miller, in at least [0211] states: “The organization performs step [ ] to identify the functional, technical, and performance requirements for the technology infrastructure that should support the solution [... and...] identifies key performance indicators, [...]” (emphasis added) where ‘professional skills: category...’ corresponds to the *profession-specific [skills] framework* and ‘functional’ and ‘performance requirements...’ corresponds to the *business-specific framework*.)

- *retrieving, from the data store, a second subset of dimension skills, the second subset of dimension skills selected from the plurality of dimension skills, wherein the second subset of dimension skills correspond to a second subset of the plurality of users, and wherein each of the dimension skills included in the second subset of dimension skills is a profession-related skill corresponding to a second profession found in the organization* (Miller [0094] states “The roles, jobs, teams and organizational structures will document the responsibilities associated with: the individual (roles), groups of related roles (jobs), groups of jobs (teams) and the span of control, reporting relationships and functional relationships of all of these components.” and in [0120] which states “...monitoring and developing the skills and performance of program management team members.” Where the association between specific skills and a specific group, *i.e.*, team, is evident. Miller, in at least

[0073] states: "Returning to FIG. 2G, the next task in the mini-assessment and appraisal is to assess the development of an onsite schedule, step 262. The core of the assessment during step 260 is made up of the onsite period, which usually lasts from five to ten days. The onsite period consists of three basic activities: (1) gathering information through interview sessions with project leaders, team leaders, and functional area representatives; (2) mapping information to processes areas within the scope of the assessment through consolidation sessions [...]" and in [0094] states: "The competency model definition will document the knowledge, skills and other attributes/abilities associated with high performance on a job. The roles, jobs, teams and organizational structures will document the responsibilities associated with: the individual (roles), groups of related roles (jobs), groups of jobs (teams) and the span of control, reporting relationships and functional relationships [...]" In designing a competency model [...], the organization should group together related competencies to form a competency model. A competency is skills, and other attributes/abilities associated with high performance on a job; and a competency model is a group of related competencies required to perform a career field such as team leader or technical coach. Similarly, [...], the organization defines the roles played by individuals, the jobs they hold, the teams in which they work, and the relationship between teams. The organization should logically define roles for individuals on the basis of their competencies, [...]" (emphasis added) where 'group together...' and 'competency model is ...' corresponds to *a subset of dimension skills*...Note that 'gathering information...' and 'mapping information' as disclosed corresponds to *retrieving a subset*... Finally, Miller [0264] specifically contemplates a workforce with "different roles, teams, or functional areas..." hence corresponds to a *second subset of dimension skills*);

Mui/Miller describes and/or discloses methods for "enterprise workforce planning" and a type of "process improvement framework" wherein users or employees are given a roadmap to assist in

organizational transformation. Mui describes ways to assess individuals and Miller provides the framework by which there are controlled improvements in organizational competence. Magrino also describes and/or discloses categories for measuring profession-specific skills and competencies and “for efficiently, accurately and comprehensively evaluating members of a workforce based on a skills requirements specification.” (Magrino [0015]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the inventions of Mui/Miller and Magrino so that organizations can assess both professional skill levels and business-specific skill levels and thereby obtain a more detailed and hence useful skill-profile of their workforce so that a workforce is better trained and management is better informed as to how to best to utilize the competencies of the workforce. Moreover, the technical ability existed to combine the elements as claimed and the results of the combination were predictable.

**Claims 6, 13 and 19:**

Although claims 6, 13 and 19 are worded and/or structured slightly differently, they have the same scope and so are addressed together. Mui, Miller and Magrino describe and/or disclose the limitations of claims 1, 8 and 14 as shown above. Mui further describes and/or discloses the following limitations.

- *identifying one or more functional skills that correspond to the first subset of dimension skills* (Mui, in at least [1232] states: “An organization's business goals [ ] may be specific goals at any level: enterprise, business unit, function, project, or department level. By disaggregating the organizational goals into smaller segments [...] a user [...] can determine the required goals [ ] for each jobholder. These segmented goals drive job definitions and required competencies which the jobholder must possess for the organization to achieve these goals.” (emphasis added) where the ‘function’ corresponds to a *functional skill* per the ‘required competencies’ and ‘disaggregating ...’ corresponds to the act of *identifying one or more functional skills*... since that process is used to define and hence identify.); and

Art Unit: 3624

- *including the identified functional skills in the first profession-specific framework module* (Mui [0963] describes an association between skill competencies and user profiles. Mui, in at least [1214] states: “The Performance module [...] defines the services available for managing human performance, including competencies, goals, and feedback services [...]” (emphasis added) where the ‘defined’ set of competencies is ‘included’ in the ‘performance module’ hence *the identified functional skills [are included] in the framework.*).

Art Unit: 3624

### Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Mark A. Fleischer** whose telephone number is **571.270.3925**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **Bradley Bayat** whose telephone number is **571.272.6704** may be contacted.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Any response to this action should be mailed to:

Art Unit: 3624

**Commissioner of Patents and Trademarks**

Washington, D.C. 20231

or faxed to **571-273-8300**.

Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window:**

Randolph Building

401 Dulany Street

Alexandria, VA 22314.

Mark A. Fleischer  
/Mark A Fleischer/  
Examiner, Art Unit 3624

30 September 2009

/Bradley B Bayat/  
Supervisory Patent Examiner, Art Unit 3624